

analyzing small entity impact for purposes of the Regulatory Flexibility Act, we believe that, to the extent that the rule impacts small air carriers, the impact will be a favorable one, since it will consist of receiving compensation. We have facilitated the participation of small entities in the program by allowing a longer application period for

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<sup>1</sup> This petition and additional information that Cargill Dow submitted are on the rulemaking record of this proceeding. This material, as well as the comments that were filed in this proceeding, are available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and the Commission's Rules of Practice, 16 CFR 4.11, at the Consumer Response Center, Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC. The comments that were filed are found under the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 CFR part 303, Matter No. P948404, "Cargill Dow Generic Fiber Petition Rulemaking." The comments also are available for viewing in electronic form at <<www.ftc.gov>>.

<sup>2</sup> PLA also is the acronym for the polymer from which the fiber is manufactured, namely polylactic acid or polylactide.

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<sup>3</sup> The Commission first announced these criteria on December 11, 1973 (38 FR 34112), and later clarified and reaffirmed them on December 6, 1995 (60 FR 62352), May 23, 1997 (62 FR 28342), and January 6, 1998 (63 FR 447 and 63 FR 449).

<sup>4</sup> 65 FR 69486, at 69487–69491 (Nov. 17, 2000). For brevity’s sake, the Commission is providing a simplified description of the fiber in this notice, and refers those who wish to see detailed technical information about the fiber to the earlier description in the NPR.

<sup>5</sup> (1) American Fiber Manufacturers Association, Inc. (“AFMA”); (2) Dystar UK Ltd; (3) Keller and Heckman LLP on behalf of Cargill Dow; (4) National Corn Growers Association; (5) Interface Research Corporation; (6) Woolmark Company; (7) Finnish Standards Association (“FSA”); and (8) European Commission (“EC”).

<sup>6</sup> Cargill Dow’s comment provides the Commission with the results of the consumer focus

group research it sponsored. The report demonstrated that the focus group participants believed it would be most appropriate to place PLA in a separate fiber category.

<sup>7</sup> 65 FR 69486 (Nov. 17, 2000).

3. Discussion of the Three Criteria for Granting New Generic Names

a. Distinctive Chemical Composition and Physical Properties of Importance to the Public

The materials Cargill Dow submitted show that PLA fiber is based upon a distinctive chemical structure that is not encompassed by any existing definition in Rule 7. PLA's distinctive chemical structure results in a fiber that exhibits: low moisture absorption and high wicking, low flammability, high resistance to ultra violet light, a low index of refraction, and stability with respect to laundering and dry cleaning. In addition, the fiber comes from a renewable resource base. These properties are very important to those members of the general public who, for example, desire sports or performance apparel that is water-resistant and washable, or desire furnishings with low flammability. Thus, Cargill Dow's application meets this first criterion.

b. Active Commercial Use

Cargill Dow's petition stated that fibers produced from PLA have been made into finished goods that are ready to commercialize, and several are in test markets. When it filed its petition, Cargill Dow was in the process of building a plant in Blair, Nebraska, capable of producing approximately 30 million pounds per year of PLA. Counsel for Cargill Dow has informed Commission staff that the plant soon will be operational. Such a level of production for distribution satisfies this second criterion.

c. Importance to the Consuming Public

The Commission agrees with Cargill Dow that the granting of a generic name to describe PLA is of importance to the general public, and not just a few knowledgeable professionals such as purchasing officers for large government agencies. A new generic name will enable consumers to identify textile fiber products containing PLA (such as sports and performance apparel) that exhibit significant water-resistance, softer feel or "hand," elasticity, shape retention, and improved comfort. Thus, Cargill Dow's application satisfies this third criterion.

4. Conclusion

Based on the foregoing, the Commission finds that Cargill Dow's fiber, PLA, is of a distinctive chemical composition not encompassed by any of the Textile Rules' existing generic definitions for manufactured fibers, that its physical properties are important to the public, that the fiber is in active

commercial use, and that the granting of a new generic name and definition is important to the consuming public at large.

In light of the comments it received, the Commission has determined to adopt the generic name "PLA" to identify Cargill Dow's new manufactured fiber. The name "PLA" is used throughout Cargill Dow's application to identify its Natureworks fiber, and there is a precedent in the Rule, namely "PBI," for adopting an acronym as a generic fiber name (16 CFR 303.7(u)). In addition, the Commission is not aware of any other aliphatic hydroxycarboxylic acid derived polymer currently being used to manufacture textile fibers. Accordingly, to avoid consumer confusion, and in the absence of any other suggested generic fiber names from the commenters or the petitioner, the Commission has determined to designate the generic name "PLA" for Cargill Dow's Natureworks fiber.

Further, the Commission agrees that it would be inappropriate to include methods of manufacture in the new generic fiber definition of PLA. There is no precedent for doing so in section 303.7 of the Rule, and, in the Commission's view, including methods of manufacture in the generic fiber definition would unduly limit industry research and innovation. Therefore, as a

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<sup>8</sup> The Commission notes that the definition of PLA it is adopting is consistent in form with, for example, the definition of Azlon, which is defined as a manufactured fiber in which the fiber-forming substance is composed of any regenerated naturally occurring proteins (16 CFR 303.7(g)).

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